

Senate File 380 - Introduced

SENATE FILE _____
BY NOBLE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act eliminating the requirement of the commission of certain
2 predatory acts prior to civil commitment as a sexually violent
3 predator.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2666SS 82
6 jm/je/5

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1 1 Section 1. Section 229A.1, unnumbered paragraph 1, Code
1 2 2007, is amended to read as follows:
1 3 The general assembly finds that a small but extremely
1 4 dangerous group of sexually violent predators exists which is
1 5 made up of persons who do not have a mental disease or defect
1 6 that renders them appropriate for involuntary treatment
1 7 pursuant to the treatment provisions for mentally ill persons
1 8 under chapter 229, since that chapter is intended to provide
1 9 short-term treatment to persons with serious mental disorders
1 10 and then return them to the community. In contrast to persons
1 11 appropriate for civil commitment under chapter 229, sexually
1 12 violent predators generally have antisocial personality
1 13 features that are unamenable to existing mental illness
1 14 treatment modalities and that render them likely to engage in
1 15 sexually violent behavior. The general assembly finds that
1 16 sexually violent predators' likelihood of engaging in repeat
1 17 acts of ~~predatory~~ sexual violence is high and that the
1 18 existing involuntary commitment procedure under chapter 229 is
1 19 inadequate to address the risk these sexually violent
1 20 predators pose to society.
1 21 Sec. 2. Section 229A.2, subsection 4, Code 2007, is
1 22 amended to read as follows:
1 23 4. "Likely to engage in ~~predatory~~ acts of sexual violence"
1 24 means that the person more likely than not will engage in acts
1 25 of a sexually violent nature. If a person is not confined at
1 26 the time that a petition is filed, a person is "likely to
1 27 engage in ~~predatory~~ acts of sexual violence" only if the
1 28 person commits a recent overt act.
1 29 Sec. 3. Section 229A.2, subsection 6, Code 2007, is
1 30 amended by striking the subsection.
1 31 Sec. 4. Section 229A.2, subsection 11, Code 2007, is
1 32 amended to read as follows:
1 33 11. "Sexually violent predator" means a person who has
1 34 been convicted of or charged with a sexually violent offense
1 35 and who suffers from a mental abnormality which makes the
2 1 person likely to engage in ~~predatory~~ acts constituting
2 2 sexually violent offenses, if not confined in a secure
2 3 facility.
2 4 Sec. 5. Section 229A.8, subsection 1, Code 2007, is
2 5 amended to read as follows:
2 6 1. Upon civil commitment of a person pursuant to this
2 7 chapter, a rebuttable presumption exists that the commitment
2 8 should continue. The presumption may be rebutted when facts
2 9 exist to warrant a hearing to determine whether a committed
2 10 person no longer suffers from a mental abnormality which makes
2 11 the person likely to engage in ~~predatory~~ acts constituting
2 12 sexually violent offenses if discharged, or the committed
2 13 person is suitable for placement in a transitional release
2 14 program.
2 15 Sec. 6. Section 229A.8, subsection 5, paragraph e,
2 16 subparagraph (1), Code 2007, is amended to read as follows:
2 17 (1) The mental abnormality of the committed person has so
2 18 changed that the person is not likely to engage in ~~predatory~~
2 19 acts constituting sexually violent offenses if discharged.

2 20 Sec. 7. Section 229A.8, subsection 6, paragraph d,
2 21 subparagraph (1), Code 2007, is amended to read as follows:
2 22 (1) The committed person's mental abnormality remains such
2 23 that the person is likely to engage in ~~predatory~~ acts that
2 24 constitute sexually violent offenses if discharged.

2 25 Sec. 8. Section 229A.8A, subsection 2, paragraph g, Code
2 26 2007, is amended to read as follows:

2 27 g. The committed person is not likely to engage in
2 28 ~~predatory~~ acts constituting sexually violent offenses while in
2 29 the program.

2 30 Sec. 9. Section 229A.10, subsection 1, Code 2007, is
2 31 amended to read as follows:

2 32 1. If the director of human services determines that the
2 33 person's mental abnormality has so changed that the person is
2 34 not likely to engage in ~~predatory~~ acts that constitute
2 35 sexually violent offenses if discharged, the director shall
3 1 authorize the person to petition the court for discharge. The
3 2 petition shall be served upon the court and the attorney
3 3 general. The court, upon receipt of the petition for
3 4 discharge, shall order a hearing within thirty days. The
3 5 attorney general shall represent the state, and shall have the
3 6 right to have the petitioner examined by an expert or
3 7 professional person of the attorney general's choice. The
3 8 hearing shall be before a jury if demanded by either the
3 9 petitioner or the attorney general. If the attorney general
3 10 objects to the petition for discharge, the burden of proof
3 11 shall be upon the attorney general to show beyond a reasonable
3 12 doubt that the petitioner's mental abnormality or personality
3 13 disorder remains such that the petitioner is likely to engage
3 14 in ~~predatory~~ acts that constitute sexually violent offenses if
3 15 discharged.

3 16 Sec. 10. Section 229A.11, Code 2007, is amended to read as
3 17 follows:

3 18 229A.11 SUBSEQUENT DISCHARGE OR TRANSITIONAL RELEASE
3 19 PETITIONS == LIMITATIONS.

3 20 Nothing in this chapter shall prohibit a person from filing
3 21 a petition for discharge or placement in a transitional
3 22 release program, pursuant to this chapter. However, if a
3 23 person has previously filed a petition for discharge or for
3 24 placement in a transitional release program without the
3 25 authorization of the director of human services, and the court
3 26 determines either upon review of the petition or following a
3 27 hearing that the petition was frivolous or that the
3 28 petitioner's condition had not so changed that the person was
3 29 not likely to engage in ~~predatory~~ acts constituting sexually
3 30 violent offenses if discharged, or was not suitable for
3 31 placement in the transitional release program, then the court
3 32 shall summarily deny the subsequent petition unless the
3 33 petition contains facts upon which a court could find the
3 34 condition of the petitioner had so changed that a hearing was
3 35 warranted. Upon receipt of a first or subsequent petition
4 1 from a committed person without the director's authorization,
4 2 the court shall endeavor whenever possible to review the
4 3 petition and determine if the petition is based upon frivolous
4 4 grounds. If the court determines that a petition is
4 5 frivolous, the court shall dismiss the petition without a
4 6 hearing.

4 7 EXPLANATION

4 8 This bill eliminates the requirement that the commission of
4 9 certain acts prior to civil commitment as a sexually violent
4 10 predator be predatory acts.

4 11 The bill requires a person, in order to be eligible for
4 12 civil commitment as a sexually violent predator, to be a
4 13 person who has been convicted of or charged with a sexually
4 14 violent offense and who suffers from a mental abnormality
4 15 which makes the person likely to engage in acts constituting
4 16 sexually violent offenses, if not confined in a secure
4 17 facility.

4 18 Current law requires the sexually violent offenses be
4 19 predatory in nature prior to being eligible for civil
4 20 commitment as a sexually violent predator. Current law
4 21 defines "predatory" to mean an act directed toward a person
4 22 with whom a relationship has been established or promoted for
4 23 the primary purpose of victimization.

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